

PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

1 Name CARRANZA, ISMAEL T.
 2 (Last) (First) (Initial)

3 Prisoner Number V-52236

4 Institutional Address P.O. Box 8504

5
UNITED STATES DISTRICT COURT
 6 **NORTHERN DISTRICT OF CALIFORNIA**

7 ISMAEL TOVAR CARRANZA

8 (Enter the full name of plaintiff in this action.)

CV } 08

1586

9 vs.

10 JAMES A. YATES, WHRDEN

11 Case No. _____
 12 (To be provided by the clerk of court)

13 **PETITION FOR MHP
OF HABEAS CORPUS**

14 (PR)

15 (Enter the full name of respondent(s) or jailor in this action)

16 **Read Comments Carefully Before Filling In**

17 **When and Where to File**

18 You should file in the Northern District if you were convicted and sentenced in one of these
 19 counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa,
 20 San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in
 21 this district if you are challenging the manner in which your sentence is being executed, such as loss of
 22 good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

23 If you are challenging your conviction or sentence and you were not convicted and sentenced in
 24 one of the above-named fifteen counties, your petition will likely be transferred to the United States
 25 District Court for the district in which the state court that convicted and sentenced you is located. If
 26 you are challenging the execution of your sentence and you are not in prison in one of these counties,
 27 your petition will likely be transferred to the district court for the district that includes the institution
 28 where you are confined. Habeas L.R. 2254-3(b).

1 Who to Name as Respondent

You must name the person in whose actual custody you are. This usually means the Warden or jailor. Do not name the State of California, a city, a county or the superior court of the county in which you are imprisoned or by whom you were convicted and sentenced. These are not proper respondents.

If you are not presently in custody pursuant to the state judgment against which you seek relief but may be subject to such custody in the future (e.g., detainers), you must name the person in whose custody you are now and the Attorney General of the state in which the judgment you seek to attack was entered.

10 | A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

11 1. What sentence are you challenging in this petition?

12 (a) Name and location of court that imposed sentence (for example; Alameda
13 County Superior Court, Oakland):

County Superior Court Contra Costa

15 Court Location

16 (b) Case number, if known 5-040 321-2

17 (c) Date and terms of sentence September 20, 2004

(d) Are you now in custody serving this term? (Custody means being in jail, on

19 parole or probation, etc.) Yes X No _____

20 Where?

21 Name of Institution: Pleasant Valley State Prison

22 Address: P.O. Box 8504, Coolings, Cg. 93210

23 2. For what crime were you given this sentence? (If your petition challenges a sentence for
24 more than one crime, list each crime separately using Penal Code numbers if known. If you are
25 challenging more than one sentence, you should file a different petition for each sentence.)

26 Count One Murder Penal Code § 187, using a firearm and

27 Count Two Penal Code §§ 187/664, using a firearm

1 3. Did you have any of the following?

2 Arraignment: Yes No _____

3 Preliminary Hearing: Yes No _____

4 Motion to Suppress: Yes No _____

5 4. How did you plead?

6 Guilty _____ Not Guilty Nolo Contendere _____

7 Any other plea (specify) MOTION TO DISMISS _____

8 5. If you went to trial, what kind of trial did you have?

9 Jury Judge alone _____ Judge alone on a transcript _____

10 6. Did you testify at your trial? Yes No _____

11 7. Did you have an attorney at the following proceedings:

12 (a) Arraignment Yes No _____

13 (b) Preliminary hearing Yes No _____

14 (c) Time of plea Yes No _____

15 (d) Trial Yes No _____

16 (e) Sentencing Yes No _____

17 (f) Appeal Yes No _____

18 (g) Other post-conviction proceeding Yes No _____

19 8. Did you appeal your conviction? Yes No _____

20 (a) If you did, to what court(s) did you appeal?

21 Court of Appeal Yes No _____

22 Year: 12-03 Result: Extradited To California

23 Supreme Court of California Yes No _____

24 Year: 08-30-06 Result: Denied Review

25 Any other court Yes _____ No _____

26 Year: 10-30-07 Result: Traverse ; Returned

27 (b) If you appealed, were the grounds the same as those that you are raising in this

1 petition? Yes _____ No X

2 (c) Was there an opinion? Yes X No _____

3 (d) Did you seek permission to file a late appeal under Rule 31(a)?

4 Yes _____ No X

If you did, give the name of the court and the result:

NORTHERN DISTRICT, Respondent request extension until 09-30-07

Court request Petitioner To file Traverse before 10-30-07

8 9. Other than appeals, have you previously filed any petitions, applications or motions with respect to
9 this conviction in any court, state or federal? Yes _____ No X

10 [Note: If you previously filed a petition for a writ of habeas corpus in federal court that
11 challenged the same conviction you are challenging now and if that petition was denied or dismissed
12 with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit
13 for an order authorizing the district court to consider this petition. You may not file a second or
14 subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28
15 U.S.C. §§ 2244(b).]

16 (a) If you sought relief in any proceeding other than an appeal, answer the following
17 questions for each proceeding. Attach extra paper if you need more space.

I. Name of Court: SUPERIOR COURT NORTHERN DISTRICT

19 Type of Proceeding: Traverse

20 || Grounds raised (Be brief but specific):

a. No proof of evidence by DECLARATION OF BOB GATLIN

b. ATTORNEY refused To call Petitioner's witnesses To Testify

23 c. Prosecution admission of Falsity Evidence to mislead jury

24 d. Carmen Tovar and Agustín Herrera filed false statements

25 Result: Traverse Returned Date of Result: 10-31-07

26 II. Name of Court: _____

27 Type of Proceeding: _____

28 Grounds raised (Be brief but specific):

1 EDMUND G. BROWN JR.
2 Attorney General of the State of California
3 DANE R. GILLETTE
4 Chief Assistant Attorney General
5 GERALD A. ENGLER
6 Senior Assistant Attorney General
7 PEGGY S. RUFFRA
8 Supervising Deputy Attorney General
MICHAEL D. O'REILLEY
State Bar No. 72144
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5965
Fax: (415) 703-1234
Attorneys for Respondent

ISMAEL TOVAR CARRANZA

No. C 07-1114 MHP (PR)

Petitioner, **[PROPOSED] ORDER**

V.

JAMES A. YATES, WARDEN,

JAMES A. YATES, WARDEN.

Respondent.

19 GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that respondent may have
20 until September 30, 2007, to answer or file another pleading responsive to the petition for writ of
21 habeas corpus. If petitioner wishes to respond to the answer, he shall do so by filing a traverse iwth
22 the Court and serving it on petitioner on or before October 30, 2007.

24 | DATED: _____

MARILYN HALL PATEL
United States District Judge

I, ISMAEL TOVAR CARRANZA, declare:

That I am over 18 years of age, and a party to the attached herein cause of action, that I reside at Pleasant Valley State Prison in the county of Fresno, California. My mailing address is: PLEASANT VALLEY STATE PRISON
FACILITY D, BUILDING 2, CELL 220-L, POST OFFICE BOX 8504,
COALINGA, CALIFORNIA 93210-8504

On October 28, ²⁰⁰⁷ ~~2005~~, I delivered to prison officials for the mailing, at the above address, the attached documents: TRAVERSE
TO RETURN TO PETITION FOR WRIT OF HABEAS
CORPUS.

In sealed envelope(s) with postage fully prepaid, addressed to the following locations:

(1) U.S. DISTRICT COURT
450 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA 94102

(3) _____

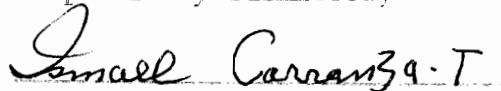
(2) Deputy Attorney General
~~455 Golden Gate Ave., Suite 11000~~
~~San Francisco, CA. 94102-7004~~

(4) _____

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 28 day of October, 2005, at Coalinga, CA 93210.

Respectfully submitted,


Ismael Carranza-T

1 ISMAEL TOVAR CARRANZA
2 PLEASANT VALLEY STATE PRISON
3 P.O. BOX 8504
4 COALINGA, CA. 93210
5 IN PRO SE

6 SUPERIOR COURT of CALIFORNIA
7 COUNTY of NORTHERN SAN FRANCISCO

8 ISMAEL TOVAR CARRANZA,) CASE No. 5-040321-2
9 PETITIONER)
10 v.) TRAVERSE TO RETURN TO
11 JAMES YATES, WARDEN,) PETITION FOR WRIT OF
12 RESPONDENT) HABEAS CORPUS.
13)

14 I ISMAEL TOVAR CARRANZA, Petitioner, makes this Traverse
15 To Respondent's Return to Show Cause Petition for Writ of
16 Habeas Corpus and alleges as follows:

17 1. Paragraph Number One of Respondent's Return is not true;
18 (a.) True Fact, prosecution allowed Exhibit "b", to consider
19 facsimile weapon as evidence to the jury as evidence, alleging
20 the trial Court to abuse it's Discretion by the Admission of
21 FALSIFY-EVIDENCE Exhibit "b A", using the firearm as a
22 weapon to mislead the jury as the firearm used in the
23 crime.

24 (b.) True Fact, the trial Court had NO Evidence of the actual
25 weapon used in the crime as proof, trial Court was mislead
26 with false evidence. Mr. Grady Goldman, Santa Clara County
27 Crime Laboratory as the assistant crime Laboratory Direct,
28 testified, no weapon was found.

cv-01586-MHP Docum
EXHIBIT

ISMAEL TOVAR CARRANZA
P.R.S.P. D-2-220-4
P.O. Box 8504
COALINGA, CA. 93210
V-52236

LEGAL MAIL

OFFICE OF THE CLERK
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
450 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA 94102

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1 a. _____
2 b. _____
3 c. _____
4 d. _____

5 Result: _____ Date of Result: _____

6 III. Name of Court: _____

7 Type of Proceeding: _____

8 Grounds raised (Be brief but specific):

9 a. _____
10 b. _____
11 c. _____
12 d. _____

13 Result: _____ Date of Result: _____

14 IV. Name of Court: _____

15 Type of Proceeding: _____

16 Grounds raised (Be brief but specific):

17 a. _____
18 b. _____
19 c. _____
20 d. _____

21 Result: _____ Date of Result: _____

22 (b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

23 Yes _____ No X

24 Name and location of court: _____

25 B. GROUNDS FOR RELIEF

26 State briefly every reason that you believe you are being confined unlawfully. Give facts to
27 support each claim. For example, what legal right or privilege were you denied? What happened?
28 Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent
 3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,
 4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One: DECLARATION OF BOB GATLIN, Dated 02-02-04 was never
 6 read in court as Evidence, nor was he called to testify.

7 Supporting Facts: A true copy of the DECLARTION which I have and
 8 Bob Gatlin is the Chief Court Reporter for the Contra Costa County
 9 Superior Court, make this declaration in connection with the
 10 Defendant's motion to dismiss for lack of a speedy Trial.

11 Claim Two: Petitioner's Two witnesses were never called to testify
 12 in court, by his Attorney or counselor.

13 Supporting Facts: Petitioner's witnesses, Mr. Luis Del Barba, from Holt,
 14 Contra Costa, California and Mr. Eddie Vierg, from Holt,
 15 San Joaquin, California, were never called to testify in court
 16 which the witnesses informed the Petitioner

17 Claim Three: Petitioner arrested by false phone statement report
 18 and the court never informed Petitioner of the false acquisitions.

19 Supporting Facts: Carmen Tovar and Agustin Herrera, phoned Contra
 20 Costa County District Attorney's Office, filed false report to stop
 21 Petitioner's ATTORNEY GUNSAZO DURAN, legal court actions in
 22 ZACAPU MICH, MEXICO, for legal property Battle settlement.

23 If any of these grounds was not previously presented to any other court, state briefly which
 24 grounds were not presented and why:

25 Claim One: Recently received Declaration of Bob Gatlin, Claim Two: Recently
 26 was informed witnesses were dismissed, and Claim Three: Recently
 27 received MEMORANDUM OF POINTS AND AUTHORITIES on 09-13-07,
 28 and was unaware of false acquisition by family members.

1 List, by name and citation only, any cases that you think are close factually to yours so that they
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning
3 of these cases:

4 | Jackson v. Virginia, 443 U.S. 307 99 S. CT. 2781

5 | Thompson v. Louisville, 362 U.S. 199, 80 S.Ct. 624 4 L.Ed. 2d. 654

6 | Freeman v. Zahradnick, 429 U.S. 1111, 97 S.Ct. 1850, 51 L.Ed. 2d 566.

7 Do you have an attorney for this petition? Yes _____ No

8 If you do, give the name and address of your attorney:

9 _____

10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in
11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

12
13 Executed on 2-15-08 Ismael Coronizg .T

13 Executed on 2-15-08

Daniel Corrington · T

14 **Date** **Signature of Petitioner**

15 ||

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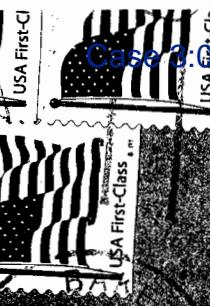
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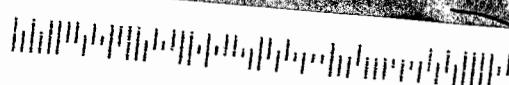


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MAR 19 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

OFFICE OF THE CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
150 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA 94102



REC
MAIL



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MARCH 20 2008
SOPHIE